position as it has been, except that it is now before the Supreme Court in place of the Circuit Court.

"We are perfectly confident that we will win on the appeal."

AS TO EFFECTS ON OTHER DEALS.

Francis Lynde Stetson declined to be interviewed. W. H. Moore of the Rock Island company, said: "The decision in the Northern Securities case will in no way affect the pending deal between the Rock Island and the St. Louis and San Francisco railroads. The cases are in no way analogous. The Rock Island and the Frisco roads are not parallel lines, nor are they competing lines."

Charles G. Gates, of Harris, Gates & Co., son of John W. Gates, who bought the control of the Louisville and Nashville in the market and turned it over to J. P. Morgan & Co., made this statement: "The Interstate Commerce Commission is now investigating the sale of the L. & N. to the Atlantic Coast Line Company. Its investigation is to determine whether the two lines are competitive. Until its decision is rendered it is impossible to say whether the L. & N. and Atlantic Coast Line merger will be affected by the decision in the Northern Securities case."

A representative of the Union Pacific Railroad, which has a heavy interest in the Northern Securities Company through the exchange of the Northern Pacific stock, bought in the contest for control prior to the corner and panic of May 9, 1901, for Northern Securities shares, said: "Whether the Union Pacific has Great Northern shares or Northern Pacific shares or Northern Securities shares will make little difference to us."

One early suggestion made in Wall Street was that the Great Northern stock now outstanding which was not turned in in exchange for Northern Securities stock should have an added value in view of the fact that if the Great Northern stock held by the Northern Securities Company cannot be voted, for the time at any rate, the control of the Great Northern Company appeared to rest with the unexchanged Great Northern stock.

It was, however, pointed out that the appeal of the case acts as a stay, permitting the continued payment of dividends and the voting of the stock.

Another important interest in the Northern Securities Company made this statement regarding the decision: "The property is by no means injured, but remains just the same as before. If the Northern Securities Company is declared illegal finally, some way will certainly be devised to hold the property legally and lawfully."

STOCKS BROKE ON THE NEWS.

First news of the decision against the Northern Securities merger reached the New York Stock Exchange a little after 1 o'clock. The market, which had been strong, at once softened, and the selling, gathering volume, resulted in sharp declines throughout the list. The losses extended to from 1 to 3 points; but toward the close, apparently chiefly on buying to cover "shorts," there were partial recoveries from the low points. In the Broad street curb market Northern Securities shares, which had advanced from 105⅛ to 106⅛ in the morning, broke under heavy offerings down to 102½. There appeared to be some support and the stock rallied to 103⅜ at the close.

FULL TEXT OF THE DECISION.

The Northern Securities Company an Illegal Combination.

ST. PAUL, Minn., April 9.—The Northern Securities Company is an illegal combination in restraint of trade. So decides the United States Circuit Court of Appeals in the Federal merger suit. Judge Sanborn filed the decision of the court to-day. It is written by Judge Thayer.

Every contention of the Government is upheld by the decision; every contention of the defence is held to be untenable. The court refuses to consider the claim of the defence that the merger will confer great benefits upon the people.

The court holds that the organization of the Northern Securities Company was a combination in restraint of trade, that it stifled competition between parallel and competing lines of railroad by placing the management of two railroad systems under one individual control.

The reasonableness of existing rates, says the court, is a matter of no moment at all, the vice of the combination being the power it confers of establishing unreasonable rates in the future. The full record of the decision is as follows:

In the Circuit Court of the United States for the District of Minnesota, Third Division—United States of America, complainants, vs. the Northern Securities Company, the Northern Pacific Railway Company, the Great Northern Railway Company, James J. Hill, William P. Clough, D. Willis James, John S Kennedy, J. Pierpont Morgan, Robert Bacon, George F. Baker and Daniel Lamont, defendants.

Philander C. Knox, Attorney-General; D. T. Watson, special counsel; James M. Beck and W. A. Day, Assistant Attorneys-General and John M. Freeman for the United States.

Mr. George B. Young and the Hon. John W. Griggs for the Northern Securities Company; M. D. Grover for the Great Northern Railway Company, C. W. Bunn for the Northern Pacific Railway Company; Francis Lynde Stetson and David Willcox for Defendants Morgan, Bacon and Lamont.

Before Caldwell, Sanborn, Thayer and Van Devanter, Circuit Judges.

Thayer, Circuit Judge, stated the conclusions of the court:

This is a bill exhibited by the United States to restrain the violation of an act of Congress approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," which is commonly called the Sherman Anti-Trust act.

The case was heard before a Circuit Court composed of the four Circuit Judges of the Eighth Circuit, pursuant to the provisions of a recent act of Congress, approved Feb. 11, 1903, which requires such cases to be heard "before not less than three of the Circuit Judges" of the circuit where the suit is brought when the Attorney-General files with the clerk of the court wherein the case is pending a certificate that it is one of "general public importance." Such a certificate has been filed, and, in accordance with the mandate of the statute, the case has been given precedence over others and in every way expedited.

FINDINGS OF FACT.

From admissions made by the pleadings as well as from much oral testimony we reach the following conclusions as respects matters of fact:

Two of the defendants, namely, the Northern Pacific Railway Company and the Great Northern Railway Company, are the owners respectively, of lines of railroad which extend from the cities of Duluth, St. Paul and Minneapolis, in the State of Minnesota, thence across the continent to Puget Sound.

These roads are and in public estimation have ever been regarded as parallel and competing lines. For years at least after they were built they competed with each other actively for transcontinental and State traffic.

In the spring of the year 1901 they united in purchasing about 98 per cent. of the entire capital stock of the Chicago, Burlington and Quincy Railway Company, and became joint surety for the payment of bonds of the last-named company, whereby the purchase was accomplished, which were to run twenty years and bear 4 per cent. interest per annum.

The amount of stock so acquired was of the par value of about $107,000,000, and as it was purchased at the rate of $200 per share the bonded indebtedness of the two companies was thus increased to the extent of $200,000,000.

Subsequent to the acquisition of the stock of the Burlington company, and in the summer of the year 1901, certain large and influential stockholders of the Northern Pacific and Great Northern companies, who had practical control of the two roads and who have been made parties defendant to the present bill, acting in concert with each other, conceived the design of placing a very large majority of the stock of both of the last-named companies in the hands of a single owner.

THE MERGER DESCRIBED.

To this end these stockholders arranged and agreed with each other to procure and cause the formation of a corporation under the laws of the State of New Jersey, which latter company, when organized, should buy all or at least the greater part of the stock of the Northern Pacific and Great Northern companies.

The individuals who conceived and promoted this plan agreed with each other to exchange their respective holdings of stock in the last-named railroad companies for the stock of the New Jersey company when the same should be fully organized, and to use their influence to induce other stockholders in their respective companies to do likewise, to the end that the New Jersey company might become the sole owner of the whole or at least a major portion of the stock of both railroad companies.

In accordance with this plan the defendant the Northern Securities Company (hereafter termed the Securities Company) was organized under the laws of the State of New Jersey on Nov. 13, 1901, with a capital stock of $400,000,000, that sum being the exact amount required to purchase the total stock of the two railroad companies at the price agreed to be paid therefor.

When the Securities Company was organized it assented to and became a party to the scheme that had been devised by its promoters before it became a legal entity.

Very shortly after its organization the Securities Company acquired a large majority of all the stock of the Northern Pacific at the rate of $115 per share, paying therefor in its own stock at par. At the same time it acquired about 300,000 shares of the stock of the Great Northern Company from those stockholders of that company who had been instrumental in organizing the Securities Company, paying therefor at the rate of $180 per share and using its own stock at par to make the purchase.

The Securities Company subsequently made further purchases of stock of the Great Northern Company at the same rate, and in about two months had acquired stock of the latter company amounting at par to about $93,000,000, using for that purpose its own stock to the amount of about $171,000,000.

The Securities Company was enabled to make the subsequent purchase of stock from stockholders of the Great Northern Company not immediately concerned in the organization of the Securities Company by the advice, procurement and persuasion of these stockholders of the Great Northern Company without having been instrumental in organizing the Securities Company and exchanged their own stock for stock in that company shortly after its organization.

At the present time the Securities Company is the owner of about 98 per cent. of all the stock of the Northern Pacific Company and the owner of about 76 per cent. of all the stock of the Great Northern Company.

DESTROYED EVERY MOTIVE FOR COMPETITION.

The scheme which was thus devised and consummated led inevitably to the following results: First, it placed the control of the two roads in the hands of a single person, to wit, the Securities Company, by virtue of its ownership of a large majority of the stock of both companies; second, it destroyed every motive for competition between two roads engaged in interstate traffic which were natural competitors for business, by pooling the earnings of the two roads for the common benefit of the stockholders of both companies; and, according to the familiar rule that every one is presumed to intend what is the necessary consequence of his own acts when done wilfully and deliberately, we must conclude that those who conceived and executed the plan aforesaid intended among other things to accomplish these objects.

The general question of law arising from this state of facts is whether such a combination of interests as that above described falls within the inhibition of the anti-trust act or is beyond its reach.

The acts brands as illegal "every contract, combination in the form of trust or otherwise or conspiracy in restraint of trade or commerce among the several States or with foreign nations."

PURPOSE IN GENERALITY OF THE LANGUAGE.

Learned counsel on both sides have commented on the general language of the act, doing so of course for a different purpose, and the generality of the language employed is, in our judgment, of great significance. It indicates, we think, that Congress, being unable to foresee and describe all the plans that might be formed and all the expedients that might be resorted to, to place restraints on interstate trade or commerce, deliberately employed words of such general import as, in its opinion, would comprehend every scheme that might be devised to accomplish that.

What is commonly termed a "trust" was a species of combination organized by individuals or corporations for the purpose of monopolizing the manufacture of, or traffic in, various articles and commodities, which was well known and fully understood when the anti-trust act was approved.

Combinations in that form were accordingly prohibited, but Congress, evidently anticipating that the combination might be otherwise formed, was careful to declare that a combination in any other form if in restraint of interstate trade or commerce, that is, if it directly occasioned or affected such restraint, should likewise be deemed illegal.

WHAT PREVIOUS DECISIONS HAVE HELD.

Moreover, in cases arising under the act, it has been held by the highest judicial authority in the nation, and its opinion has been reiterated in no uncertain tone, that the act applies to interstate carriers of freight and passengers as well as to all other persons, natural or artificial; that the words "in restraint of trade or commerce" do not mean in unreasonable or partial restraint of trade or commerce, but any direct restraint thereof; that an agreement between competing railroads which requires them to act in concert in fixing the rate for the carriage of passengers or freight over their respective lines from one State to another and which by that means restricts temporarily the right of any one of such carriers to name such rates for the carriage of such freight or passengers over its road as it pleases, is a contract in direct restraint of commerce within the meaning of the act, in that it tends to prevent competition: that it matters not whether, while acting under such a contract, the rate fixed is reasonable or unreasonable, the vice of such a contract or combination being that it confers the power to establish unreasonable rates and directly restrains commerce by placing obstacles in the way of free and unrestricted competition between carriers who are natural rivals for patronage; and finally that Congress has the power under the grant of authority contained in the Federal Constitution to regulate commerce to say that no contract or combination shall be legal which shall restrain interstate trade or commerce by shutting off the operation of the general law of competition. (United States vs. Trans-Missouri Freight Association, 166 U. S., 290; United States vs. Joint Traffic Association, 171 U. S. 505; Addyston Pipe and Steel Company vs. United States, 175 U. S. 211.)

Taking the foregoing propositions for granted because they have been decided by a court whose authority is controlling, it is almost too plain for argument that the defendants would have violated the anti-trust act if they had done, through the agency of natural persons, what they have accomplished through an artificial person of their own creation.

THE THIRD PARTY —NATURAL AND ARTIFICIAL.

That is to say, if the same individuals who promoted the Securities Company, in pursuance of a previous understanding or agreement so to do, had transferred their stock in the two railroad companies to a third party or parties and had agreed to induce other shareholders to do likewise until a majority of the stock of both companies had been vested in a single individual or association of individuals and had empowered the holder or holders to vote the stock as their own, receive all the dividends thereon and prorate or divide them among all the shareholders of the two companies who had transferred their stock, the result would have been a combination in direct restraint of interstate commerce because it would have placed in the hands of a small coterie of men the power to suppress competition between two competing interstate carriers whose lines are practically parallel.

It will not do to say that so long as each railroad company has its own board of directors they operate independently and are not controlled by the owner of the majority of their stock. It is the common experience of mankind that the acts of corporations are dictated and that their policy is controlled by those who own the majority of their stock; indeed, one of the favorite methods in these days, and about the only method, of obtaining control of a corporation, is to purchase the greater part of its stock. It was the method pursued by the Northern Pacific and Great Northern companies to obtain control of the Chicago, Burlington and Quincy Railroad; and so long as directors are chosen by stockholders the latter will necessarily dominate the former and in a real sense determine all important corporate acts.

The fact that the ownership of a majority of the capital stock of a corporation gives one the mastery and control of the corporation was distinctly recognized and declared in Pearsall vs. Great Northern Railway, 161 U. S., 646-671. The same fact has been recognized and declared by other courts, (Pennsylvania Railway Company vs. Commonwealth, 7 Atl. (Pa.), 368-371; Farmers' Loan and Trust Company vs. New York and Northern Railway Company, 150 N. Y., 410-425; People ex rel. vs. Chicago Gas Trust Company, 130 Ill., 268, 22 N. E. Rep. 798-802.)

In opposition to this view counsel cite Pullman Car Company vs. Missouri Pacific Company (113 (Mo.) 367, 596), but in that case the meaning of the word "controlled" as used in a private contract was the point under consideration and what was said on the subject cannot be held applicable to cases arising under the anti-trust act when the point involved is whether the ownership of all the stock of the two competing and parallel roads vests the owner thereof with the power to suppress competition between such roads.

We entertain no doubt that it does; indeed, we regard suppression of competition, and to that extent a restraint of commerce, as the natural and inevitable result of such ownership. What has been done through the organization of the Securities Company accomplished the object which Congress has denounced as illegal more effectually, perhaps, than such a combination as is last supposed. That is to say, by what has been done the power has been acquired (and provision made for maintaining it) to suppress competition between two interstate carriers who own and operate competing and parallel lines of railroad, and competition, we think, would not be more effectually restrained than it now is under and by force of the existing arrangement if the two railroad companies were consolidated under a single charter.

IS THE NEW JERSEY CHARTER A SHIELD?

It is manifest, therefore, that the New Jersey charter is about the only shield which the defendants can interpose between themselves and the law.

The reasoning which led to the acquisition of that charter would seem to have been that while as individuals the promoters could not by agreement between themselves place the majority of the stock of the two competing and parallel roads in the hands of a single person, or a few persons, giving him or them the power to operate the roads in harmony and stifle competition, yet that the same persons might create a purely fictitious person, termed a corporation, which could neither think nor act, except as they directed, and by placing the same stock in the name, of such artificial being accomplish the same purpose.

The manifest unreasonableness of such a proposition and the grave consequences sure to follow from its approval, compel us to assume that it must be unsound, especially when we reflect that the law, as administered by courts of equity, looks always at the substance of things; at the object accomplished, whether it be lawful of unlawful, rather than upon the particular devices or means by which it has been accomplished. So far as the New Jersey charter is concerned, the question, broadly stated, which the Court has to determine, is whether a charter granted by a State can be used to defeat the will of the National Legislature, as expressed in a law relating to interstate trade and commerce over which Congress has absolute control.

Presumptively, at least, no charter granted by a State is intended by the State to have that effect or to be used for such a purpose, and in the present instance it is clear that the State of New Jersey did not intend to grant a charter under cover of which an object denounced by Congress as unlawful, namely, a combination conferring the power to restrain interstate commerce, might be formed and maintained, because the enabling act under which the Securities Company was organized expressly declares that three or more persons may avail themselves of the provisions of the act and "become a corporation forany lawful purpose." [Laws of New Jersey, 1899, p. 473.]

This language is not merely perfunctory: it means, obviously, that whatever powers the incorporaters saw fit to assume they must hold and exercise for the accomplishment of lawful objects. The words in question operate, therefore, as a limitation upon all the powers enumerated in the articles of association which were filed by the promoters of the Securities Company; that, however extensive and comprehensive their powers may seem to be, the State of New Jersey has said, you shall not exercise them so as to set at defiance any statute lawfully enacted by the Congress of the United States or any statute law fully enacted by any State wherein you see fit to exercise your powers.

THE POWER OF CONGRESS SUPREME.

But aside from this view of the situation, if the State of New Jersey had undertaken to invest the incorporators of the Securities Company with the power to do acts in the corporate name which would operate to restrain interstate commerce and for that reason could not be done by them acting as an association of individuals then we have no doubt that such a grant would have been void under the plans of the Anti-Trust act, or at least that the charter could not be permitted to stand in the way of the enforcement of that act.

The power of Congress over interstate commerce is supreme, farreaching, and acknowledges no limitations other than such as are prescribed in the Constitution itself (Gibbons vs. Ogden, 9 Wheat 1, 197; County of Mobile vs. Kimball, 102, U. S., 691, 696, 697; Champion vs. Ales U. S., decided Feb. 23, 1903.)

No legislation on the part of a State can curtail or interfere with its exercise, and in view of repeated decisions no one can deny that it is a legitimate exercise of the power in question for Congress to say that neither natural nor artificial persons shall combine to conspire in any form whatever to place restraints on interstate trade or commerce. (United States vs. Trans-Missouri Freight Association, 166 U. S. 290; United States vs. Joint Traffic Association 171 U. S. 505; Addiston Pipe and Steel Company vs. United States 175 U. S. 211.)

It is urged, however, that such a combination of adverse interests as was formed and has been heretofore described was lawful and not prohibited by the Anti-Trust act because such restraint upon interstate trade or commerce, if any, as it imposes, is indirect, collateral and remote, and hence that the combination is not one of that character, which the Congress of the United States can lawfully forbid. The following cases are relied upon to sustain the contention: United States vs. E. C. Knight Company, 156 U. S. 1; Hopkins vs. United States 171 U. S. 376; Anderson vs. U. S. 171 U. S. 604.

HOW INTERSTATE COMMERCE IS AFFECTED.

It is pertinent, therefore, to inquire in what way the existing combination that has been formed does affect interstate commerce. It affects it, we think, by giving to a single corporate entity, or, more accurately, to a few men acting in concert and in its name and under cover of its charter, the power to control all the means of transportation that are owned by two competing and parallel railroads engaged in interstate commerce; in other words, the power to dictate every important act which the two companies may do; to compel them to act in harmony in establishing interstate rates for the carriage of freight and passengers, and generally to prescribe the policy which they shall pursue.

It matters not, we think, through how many hands the orders come by which these aims are accomplished or through what channels; the power was not only acquired by the combination, but it is effectually exercised and it operates directly on interstate commerce, notwithstanding the manner of its exercise, by controlling the means of transportation, to wit, the cars, engines and railroads by which persons and commodities are carried, as well as by fixing the price to be charged for such carriage.

The cases cited above and on which reliance is placed to sustain the view that the restraint imposed is merely indirect, remote, incidental or collateral, are not revelant, for, as was fully explained in Addyston Pipe and Steel Company vs. U. S. (175 U. S. 211, 238, 240, 243), one of these cases (U. S. vs. E. C. Knight Company) dealt only with a combination within a State to obtain a practical monopoly of the manufacture of sugar, and it was held that the combination only related to manufacture, and not to commerce among the States or with foreign nations; that the fact that an article was manufactured for export to another State did not make it an article of interstate commerce before transportation had been begun or necessarily subject it to Federal control; and that the effect of the combination then under consideration, on interstate commerce, was at most only incidental and collateral.

But while commenting on its previous decision in U. S. vs. E. C. Knight Company, the Court took occasion to say, in Addyston Pipe and Steel Company vs. U. S. (175 U. S. 246), that when a contract is made for the sale and delivery of an article in another State, the transaction is one of interstate commerce, although the vendor has also agreed to manufacture the article so sold; and that combinations to control and monopolize such transactions would be in restraint of interstate commerce.

In the other cases (Hopkins vs. the U. S. and Anderson vs. the U. S.) it was held that the business of the members of the Kansas City Live Stock Exchange, which was under consideration by the court, was not interstate commerce and that the act did not affect them, and that, even if they were so affected, the particular agreement which was involved did not operate as a restraint of interstate commerce.

We fail to find in either of these cases any suggestion that a combination such as the one in hand, the object and necessary effect of which is to give to a single person or to a coterie of persons full control of all the means of transportation owned by two competing and parallel lines of road engaged in interstate commerce, as well as the power to fix the rate for the transportation of persons and property, does not directly and immediately affect interstate commerce. No combination, as it would seem, could more immediately affect it.

AS TO PRIVATE CONTRACTS.

Again, it is urged tentatively that if the existing combination which the Government seeks to have dissolved is held to be one in violation of the Anti-Trust act and unlawful, then the act unduly restricts the right of the individual to make contracts, buy and sell property and is invalid for that reason.

With reference to this contention it might be suggested (as it has been by the Government) that as the *situs* of the stock which the Securities Company has brought is in the States of Wisconsin and Minnesota, which respectively chartered the Northern Pacific and Great Northern companies, and as the stock owes its being to the laws of those States and as each State has forbidden the consolidation of competing and parallel lines of road therein and has likewise prohibited the consolidation of the "stock and franchises" of such roads the contention last mentioned is entitled to little consideration in the case at bar.

But, waiving and ignoring this suggestion, the argument advanced in behalf of the defendants is met and answered, so far as this court is concerned, by the decision in Addyston Pipe and Steel Company vs. U. S. (175 U. S. 228, 229,) where it is said *inter alia*: "under this grant of power to Congress [the power to regulate commerce between the several States and with foreign nations] that body in our judgment may enact such legislation as shall declare void and prohibit the performance of any contract between individuals or corporations where the natural and direct effect of such a contract will be, when carried out, to directly, and not as a mere incident to other and innocent purposes, regulate, to any substantial extent, interstate commerce."

AS TO CONSTITUTIONAL GUARANTY OF LIBERTY.

We do not assent to the correctness of the proposition that the constitutional guarantee of liberty to the individual to enter into private contracts limits the power of Congress and prevents it from legislating on the subject of contracts of the class mentioned.

It has been held that the word "liberty," as used in the Constitution, was not to be confined to the mere liberty of persons, but included among others a right to enter into certain classes of contracts for the purpose of enabling the citizen to carry on his business.

But it has never been, and, in our opinion, ought not to be, held that the word included the right to enter into private contracts upon all subjects, no matter what their nature, and wholly irrespective, among other things, of the fact that they would, if performed, result in the regulation of interstate commerce and in violation of an act of Congress upon that subject.

The provision of the Constitution does not as we believe, exclude Congress from legislaing with regard to contracts of the above nature while in the exercise of its Constitutional right to regulate commerce among the States. The provision regarding the liberty of the citizen is to some extent limited by the commerce clause of the Constitution and the power of Congress to regulate interstate commerce comprises the right to enact a law prohibiting the citizen from entering into those private contracts which directly and substantially, and not merely indirectly, remotely, incidentally and collaterally, regulate to a greater or less degree commerce among the States.

We cannot so enlarge the scope of the language of the Constitution regarding the liberty of the citizen as to hold that it includes or that it was intended to include a right to make a contract which, in fact, restrains and regulates interstate commerce, notwithstanding Congress, proceeding under the Constitutional provision giving to it the power to regulate that commerce, had prohibited such contracts.

These observations, as a matter of course, preclude further controversy over the power of Congress to limit to some extent the right to make contracts when enacting laws for the regulation of commerce between the States.

CONTENTIONS OF DEFENCE DO NOT HOLD.

Learned counsel for the defendants further contend as follows: That the Anti-Trust act was not intended to include or prohibit combinations looking to the virtual consolidation of parallel and competing lines of railroads, although such a combination operates to stifle competition; that no relief can be granted to the Government in this instance, because the combination or conspiracy of which it complains has accomplished its purpose, to wit the organization of the Securities Company and the lodgement of the majority of the stock of the two railroads in its hands before the bill was filed, and finally that the combination proven was one "formed in aid of commerce and not to restrain it"; in other words that it was one formed to enlarge the volume of interstate traffic and thus benefit the public.

The Court cannot assent to either of these propositions. The first, we think, is clearly untenable, for the reasons already stated and fully disclosed in the decisions heretofore cited.

Concerning the second contention, we observe that it would be a novel, not to say absurd, interpretation of the Anti-Trust act to hold that after an unlawful combination is formed and has acquired the power which it had no right to acquire, namely, to restrain commerce by suppressing competition, and is proceeding to use it and execute the purpose for which the combination was formed, it must be left in possession of the power that it has acquired with full freedom to exercise it.

Obviously the act when fairly interpreted, will bear no such construction, as it is confessedly aimed to destroy the power to place any direct restraint on interstate trade or commerce when, by any combination or conspiracy formed by either natural or artificial persons, such a power has been acquired; and the Government may intervene and demand relief as well after the combination is fully organized as while it is in process of formation. In this instance, as we have already said, the Securities Company made itself a party to a combination in restraint of interstate commerce that ante-dated its organization, as soon as it came into existence, doing so of course under the direction of the very individuals who promoted it.

Relative to the third contention, which has been pressed with great zeal and ability, this may be said:

It may be that such a virtual consolidation of parallel and competing lines of railroad as has been effected, taking a broad view of the situation, is beneficial to the public rather than harmful. It may be that the motives which inspired the combination by which this end was accomplished were wholly laudable and unselfish; that the combination was formed by the individual defendants to protect great interests which had been committed to their charge; or it may be that the combination was the initial and a necessary step in the accomplishment of great designs which, if carried out as they were conceived, would prove to be of inestimable value to the communities which these roads serve and to the country at large.

We shall neither affirm nor deny either of these propositions because they present issues which we are not called upon to determine and some of them involve questions which are not within the province of any court to decide, involving, as they do, questions of public policy which Congress must determine.

It is our duty to ascertain whether the proof discloses a combination in direct restraint of interstate commerce, that it to say, a combination whereby the power has been acquired to suppress competition between two or more competing and parallel lines of road engaged in interstate commerce.

If it does disclose such combination, and we have little hesitation in answering this question in the affirmative, then the Anti-Trust act, as it has been heretofore interpreted by the court of last resort has been violated and the Government is entitled to a decree.

THE COURT'S DECREE.

A decree in favor of the United States will accordingly be entered to the following effect:

Adjudging that the stock of the Northern Pacific and Great Northern companies, now held by the Securities company, was acquired in virtue of a combination among the defendants in restraint of trade and commerce among the several States, such as the Anti-Trust act, denounces as illegal; enjoining the Securities company from acquiring or attempting to acquire further stock of either of said companies; also enjoining it from voting such stock at any meeting of the stockholders of either of said railroad companies or exercising or attempting to exercise any control, direction or superision over the acts of the said companies or either of them by virtue of its holding such stock; enjoining the Northern Pacific and Great Northern companies respectively, their officers, directors and agents from permitting such stock to be voted by the Northern Securities Company or any agents or attorneys on its behalf at any corporate election for directors or officers of either of said companies and likewise enjoining them from paying any dividends to the Securities company on account of said stock or permitting or suffering the Securities company to exercise any control whatever over the corporate acts of said companies or to direct the policy of either; and, finally, permitting the Securities company to return and transfer to the stockholders of the Northern Pacific and Great Northern companies any and all shares of stock of those companies which it may have received from such stockholders in exchange for its own stock, or to make such transfer and assignment to such person or persons as are now the holders and owners of its own stock originally issued in exchange for the stock of said companies.

DECISION PLEASES KNOX.

First Case Tried Under His Expedition of Causes Law.

WASHINGTON, April 9.—The officers of the Department of Justice are greatly pleased over the decision in St. Paul to-day in the Northern Securities merger case. Attorney-General Knox, upon whose advice to the President the suit was instituted last year, and Assistant Attorney-General Day, who as special attorney had charge of the work of carrying on the case, received many congratulations on the result. The suit was regarded as the most vital ever brought by the Government against any private or public corporation, and in these days of great capitalistic combinations the decision is looked upon as of the utmost importance. Mr. Day declares that this settles conclusively that, no matter what guise, disguise or form a monopoly or combination may take in restraint of trade or competition it can be reached by law.

"By this decision," said Assistant Attorney-General Day, this afternoon, "doubt has been resolved into certainty and all may know the limits to which such combinations in restraint of commerce may go. A monopoly aimed at the entire transcontinental and transpacific transportation is broken, and the combination is resolved into its original elements, with the decree of the law that they shall compete."

Mr. Day added that, had the decision of the court been against the Government's contention and in favor of the merger, it would then have been possible for practically all the transportation lines of the United States to be merged under the control of a few men.

The Northern Securities case is the first one tried under the "Expedition of Causes" law, passed by Congress at the last session at the recommendation of Attorney-General Knox, and included in the programme of the anti-trust legislation by the Republican leaders. Without that act a decision could have been delayed for months, and perhaps years. The tribunal which tried the case was created by that act for the especial purpose of expediting such proceedings, and if the Securities attorneys decide to appeal from the judgment rendered equal celerity will be observed, for the law provides that such cases shall have the right of way.

That the decision of the court was unanimous is considered by the officers of the Department as particularly fortunate, and especially complimentary to the judgment of Attorney-General Knox.

TRIES TO LET ROOSEVELT KNOW.

Secretary Loeb Sends Him a Message About Securities Decision.

CINNABAR, Mon., April 9.—Secretary Loeb received word late this afternoon that the case of the Government against the Northern Securities Company had been sustained. He immediately sent a message to the President, but there is no tellin whether the President has received it.

As matters stand now, the President is at all times within a few hours of a telegraph instrument, by which he can communicate with the outside world if he wants to, but it would take a detail of soldiers and some scouts to track down the President and Mr. Burroughs and Major Biltcher in their journey through the park.

STORY OF $400,000,000 MERGER.

It Followed the Northern Pacific Corner of May, 1901.

The Northern Securities Company was formed in November, 1901, to straighten out the tangle which resulted from the "Northern Pacific corner" of May, 1901, created by competitive buying of Northern Pacific stock by Great Northern and Union Pacific interests.

The company was incorporated under the laws of New Jersey with an authorized capital of $400,000,000, with power to acquire and hold the stocks and securities of other corporations, particularly those of the Northern Pacific and Great Northern railroads. Substantially all the common stock of the Northern Pacific, $155,000,000, was acquired by January, 1902, at the rate of $115 of Securities stock for $100 of Northern Pacific. The company now holds some $124,000,000 of Great Northern stock which was taken over at $180 of Northern Securities for $100 of Great Northern.

The Northern Pacific stock held by the Union Pacific consisted of $41,085,000 preferred and $37,028,000 common, title to which was vested in the Oregon Short Line Railroad which issued $61,000,000 4 per cent. certificates of indebtedness, all owned by the Union Pacific. In addition the Short Line on June 30, 1902, showed a balance of indebtedness of $28,750,000 "in acquiring securities of other companies" and new construction. When Northern Pacific preferred stock was retired the Oregon Short Line received $82,491,871 Northern Securities stocks and $8,900,007 cash for its Northern Pacific common. Four per cent. twenty-five year bonds were issued against a part of the Northern Securities stock.

James J. Hill is president of the company, and its directors include George F. Baker, James Stillman, George W. Perkins, Jacob H. Schiff, Edward H. Harriman, James Kennedy and Daniel S. Lamont. The company paid 4 per cent. in dividends in 1902 and in February last increased the rate to 4½ per cent.

Opposition to the plan of the company developed early in the Northwestern States and actions were instituted by the States of Washington and Minnesota.

The present suit was instituted by Attorney-General Knox under the Sherman Anti-Trust law of 1890. The hearing of arguments was begun on March 18 before Judges Sanborn, Thayer, Caldwell and Vandeventer, sitting together. The petition of the United States contains the following charges:

A virtual consolidation under one ownership and source of control of the Great Northern and Northern Pacific Railroad systems has been effected, a combination or conspiracy in restraint of trade or commerce among the several States and with foreign nations, formerly carried on by the defendant railway companies independently and in free competition one with the other, has been formed and is in operation, and the defendants are thereby attempting to monopolize and have monopolized such interstate and foreign trade or commerce to the great and irreparable damage to the people of the United States, in derogation of their common rights and in violation of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies."

KELLEY NOT DISCHARGED?

Magistrate Pool, It Seems, Had Paroled Him Until Yesterday.

The case of Daniel J. Kelley, accused of attempted bribery in Missouri, was called in the Tombs police court again yesterday, but he was not in court. Kelley and his lawyer understood after the prisoner's arraignment on Tuesday that he had been discharged.

At that time the Magistrate offered to parole Kelley in the custody of his counsel. The latter objected, and Magistrate Pool said: "All right, then, I'll parole him on his own recognizance." Then he wrote on the back of the telegram from Missouri: "The defendant is paroled. The officer has not sufficient information to warrant him making a complaint or affidavit, and on the recommendation of prominent citizens as to the good character of the alleged defendant he is paroled to April 9 at 3 P. M."

JEFFERSON CITY, Mo., April 9.—Detective James Tracy arrived here at noon to-day and got from Gov. Dockery a requisition upon Gov. Odell of New York for Kelley. Tracy at once started east for him.

Col. Dady Off for Havana.

Col. Michael J. Dady of Brooklyn started yesterday for Cuba by way of Jacksonville. He will be absent more than a month. He is accompanied by former Police Commissioner William E. Phillips and will probably be joined in Havana by Chairman Jacob Brenner of the Republican County Committee.

REJOINDER OF CLARA BARTON.

SHE CAN'T RETIRE UNDER FIRE AND AN IMPLIED THREAT.

Extension of the Red Cross to All the States Is Occupying Her—Miss Boardman Said to Have "Edited" Her Collection of Letters Published.

Miss Clara Barton read yesterday the correspondence about the Red Cross troubles given out by Miss Mabel Boardman of Washington, who was suspended from membership on March 12, three weeks before the executive committee ordered the general suspension of the twenty-two members who addressed a memorial to Congress in January protesting against the methods used to reorganize the Red Cross.

A statement was given out at Miss Barton's home in East Fifty-eighth street last night by one of the members of the Red Cross, with Miss Barton's sanction. Her representative said:

The effect of Miss Boardman's collection of letters as edited by her is to impress on the reader that Miss Boardman had no opportunity to reply to the notice of suspension. As a matter of fact, from the time Miss Boardman was notified of the action of the executive committee in her individual case (based on the letter to Mrs. John A. Logan) until the suspension of the Washington members this month, a period of three weeks intervened, and nothing in the nature of an inquiry or a reply came from Miss Boardman.

Miss Barton will be quite content to have the questions raised in the memorial heard and disposed of by Congress. Neither Miss Barton nor the Red Cross has anything to conceal, and a dignified and dispassionate inquiry by such a body as the Congress of the United States will be a far better way of clearing the public mind than the bickerings of letter writers.

The action of the Washington members has made it impossible for Miss Barton to retire honorably at this time. She repeatedly opened a way for a graceful retirement if the Red Cross was satisfied to put some one else into the active presidency and leave her to pursue her life work along lines that she had long planned in connection with the Red Cross. At the first meeting, in July 1,900, after the adoption of the act of Congress Miss Barton signified her willingness to retire. She did so again in 1901 and also at the last annual meeting, in Washington last December.

Miss Boardman's letter was a threat. Perhaps if she had printed her letters in full the situation might be clearer. Miss Boardman writing to Mrs. Logan practically said that if Miss Barton would not accept the annuity proposed and retire—which might be regarded as a bribe—then an investigation might be made of the Red Cross expenditures and method going back to the Johnstown disaster. It might well give the impression that a promise not to investigate would be an inducement to Miss Barton.

Each year the Red Cross has appointed an auditing committee to pass on the accounts and finances, and these reports have come before the annual meeting, where they may be criticised or inquired into. The insinuations of the Washington members have been general and not tangible. They have been asked for specific charges and they have not furnished them.

Nothing in this unfortunate situation has hurt Miss Barton so much as President Roosevelt's hasty decision resulting in his letter of withdrawal.

In spite of the disturbing nature of recent developments, Miss Barton has been devoting her time to the plan she has cherished for so many years, of extending the Red Cross over the country through a representative from every State to be appointed by the Governor of the each State. This constitutes a national advisory board for the purpose of broadening and nationalizing the voice and interest of the people in the work of the Red Cross.

The perfecting of this plan is provided for in the by-laws by a committee on extension. The work of the committee has been delayed by the illness of William T. Wardwell of this city, its chairman.

Miss Barton has given much time and study to this plan, realizing the difficulties in the way of perfecting it because of the breadth of the Red Cross aims and work. There is more or less sectional sentiment among the people of every State. To prevent friction and at the same time raise their loyal interest and national love above self-pride the methods must be wise, firm, kind, strong and generous. By such methods, outlined in Miss Barton's plan, the committee on extension will be enabled to broaden the purposes and extend Red Cross work throughout the States of the Union.

TALK TO REVIVE LIGHTING BILL.

John Ford Tells a Small Cooper Union Meeting It Can Be Brought to Life.

The Order of Acorns held a meeting in Cooper Union last night in the interests of the Municipal Lighting bill at Albany. Commissioner Monroe, who drew the bill, made a speech in favor of it, and so did Borough President Cantor, ex-Senator John Ford, John De Witt Warner and others. Mr. Ford said that, although an adverse vote on the bill had been given in the Senate Cities Committee, it was by no means dead and could be revived.

Resolutions were adopted calling on the Mayor to ask the Governor to push the measure in the Legislature, and the Governor to have the bill reported at once. A parade of at least 100 persons preceded the meeting.

The audience in Cooper Union was small and not particularly enthusiastic.

VOTERS' ASSISTANTS LAW.

Impressive Delegation Asks Gov. Hunn to Sign the Repeal Bill.

DOVER, Del., April 9.—The fight against Addicks's Voters' Assistants law caused a commitee of 100 Wilmington men, accompanied by twice as many New Castle county men and interested Dover spectators, to invade the State House to-day to ask Gov. Hunn to sign the Repeal bill. Gov. Hunn received them in the hall of the House of Representatives. He was greeted by an outburst of applause.

The delegation was remarkable. The millionaire jostled elbows with the hodcarrier and the shipbuilder with the drayman, all anxious that Gov Hunn should sign the bill which he threatens to veto by inaction. Theodore F. Clark, former Speaker of the House and leader of the Regular Republicans, presided as chairman of the committee, introducing the various speakers in order to the Governor. Col. Benjamin Milds, Secretary Layton of the Central Labor Union, Evan W. Gallagher of the American Federation of Labor, W. J. Fulmer, William Shilles, John G. Gray, Frederick F. Briggs, a Baptist minister; Herbert W. Wells, an Episcopal minister, and Thomas F. Bayard made ringing speeches. Next Tuesday the Addicks men will have their hearing.

Yaquis Attack a Train.

Mexico City, Mex., April 8.—A passenger train on the Sonora branch of the Southern Pacific Railroad was attacked at a place south of Hermosillo to-day by a band of Yaqui Indians. Only two or three passengers were injured, none seriously.